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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,104	03/26/2004	Jerald C. Seelig	619.807	9225
21707 7590 11/25/2008 IAN F. BURNS & ASSOCIATES 4790 Caughlin Parkway #701 RENO, NV 89519-0907				
EXAMINER				
TORIMERO, ADETOKUNBO OLUSEGUN				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
11/25/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto@nevadapatentlaw.com
pjpanzica@nevadapatentlaw.com

Office Action Summary

Application No.

10/811,104

Applicant(s)

SEELIG ET AL.

Examiner

ADETOKUNBO O. TORIMIRO

Art Unit

3714

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The arguments received on 08/20/2008 have been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless:-

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,4,6-8,10,11,13,16,17,19,21,23, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Gutknecht (US 5,154,420).

Re claims 1,4,16,21,23, and 29: Gutknecht discloses a gaming device (10), comprising: at least one three dimensional figure (52), the at least one three dimensional figure comprising a plurality of three-dimensional sections (54,58) (see **fig.1; col.3, lines 3-10**); (a) the coin (52) and the plurality of three-dimensional sections (54,58) having a height, a width, and a depth (see **figs.1 and 5**); (b) at least one of the plurality of three-dimensional sections being moveable relative to the other sections (see **abstract**); (c) the moveable three-dimensional section (52) is made of the two separate sections (54, 58) that forms fractional images (see **fig.1**); (d) the moveable three-dimensional section being positionable to allow a player to view the plurality of three-dimensional fractional images by moving the moveable three-dimensional section; and (e) wherein when the moveable three-dimensional section is in at least one position, the plurality of three-dimensional sections form at least one whole, integrated three-dimensional image (see **abstract; figs.1 and 7a-7d**); (B) at least one actuator (60) attached to the moveable three-

dimensional section, the at least one actuator configured to move the moveable three-dimensional section (see **fig.5; col.3, lines 14-21**); (C) at least one controller (36,38,40,42,46) in communication with the at least one actuator, the at least one controller being configured to randomly determine a game outcome and to cause the at least one actuator to move the moveable three-dimensional section to at least partially convey the game outcome to the player (see **fig.1; col.5, lines 11-24**); and (D) a gaming apparatus configured to allow the player to place a wager by inserting a coin and play a game of chance, the game of chance comprising the randomly determined game outcome, wherein arrangement of the plurality of three-dimensional sections conveys the randomly determined game outcome (see **summary of the invention**).

Re claims 2,6-8,13,17,27, and 28: Gutknecht discloses wherein the plurality of three-dimensional sections are positioned around a common axis through the shaft where the rotating axis of the first section coincides with the axis of the second section (see **figs.5 and 7a-7d; claim 2**); wherein the moveable three-dimensional section comprises *n* fractional images/ *two fractional images* that may when properly aligned, form *n* whole integrated images/ *forms one whole image of a coin with either heads or tails or combination of both*, where *n* is an integer; moving the sections changes the orientation of the plurality of fractional images (see **abstract; figs.7a-7d**); wherein the at least one whole, integrated three-dimensional image comprise comprises and image of an animal or human (see **figs. 7a and 7d; col.3, lines 55-65**).

Re claims 10,11,19: Gutknecht discloses wherein a prize and payout is awarded and made to the player when the plurality of three-dimensional sections area arranged, such that the

whole integrated three-dimensional image is displayed to the player; and also where partial prize and payout is made based on the number of the plurality of the three-dimensional section is formed based on the payout schedule and arrangement provided for use with the game which determines if the full payout is made to the player, or just some portion of the total payout based on what images was formed (see abstract, lines 10-14; col.2, lines 1-4; col.2, line 66-col.3, line2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3,5,14,18,22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutknecht (US 5,154,420) in view of Lupo (US 2002/0111204).

Re claims 3,5,14,18,22, and 25: The teachings of Gutknecht have been discussed above.

However, Gutknecht does not explicitly teach wherein the common axis is substantially vertical; wherein each of the at least two moveable three-dimensional sections comprise three-fractional images that may when properly aligned, form three whole integrated three-dimensional images; further comprising a sensor in communication with the at least one controller, the sensor configured to detect the position of the moveable three-dimensional section.

Lupo teaches the gaming device wherein the common axis is substantially vertical as shown in the Tic-Tac-Toe game which has both vertical and horizontal axis (see figs. 2 and 3);

wherein each of the at least two moveable three-dimensional sections comprise three-fractional images that may when properly aligned, form three whole integrated three-dimensional images, where it is inherent that for a three-dimensional Tic-Tac-Toe game, n amount fractional images can be formed, which when properly aligned forms n amount of whole integrated images (**see par. [0035], lines 1-5**); further comprising a sensor / *game play software* in communication with the at least one controller, the sensor / *game play software* configured to detect the position of the moveable three-dimensional section (**see par. [0044], lines 1-6; par. [0046], lines 1-2**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Lupo into the teachings of Gutknecht. One would be motivated to do this so as to have a three-dimensional game where the plurality of sections that make up the whole system can be moved in the vertical axis having a sensor to determine when there is an outcome so has to provide for an interesting game where the player can easily identify the outcome upon the determination by the sensor, hence making the game enjoyable for the player.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutknecht (US 5,154,420) in view of Ikenaga (US 2003/0067113).

Re claim 12: The teachings of Gutknecht have been discussed above.

However, Gutknecht does not teach the gaming device wherein the plurality of three-dimensional sections are made of plastic.

Ikenaga teaches this gaming device wherein the plurality of three-dimensional sections is made of plastic (**see claim 3**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the plurality of three-dimensional sections with the plurality of three-dimensional sections made of plastic so as to insure the smooth movement and flexibility of the plurality of three-dimensional sections.

7. Claims 15,20, and 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutknecht (US 5,154,420) in view of Inoue (US 5,722,891).

Re claims 15,20, and 24: The teachings of Gutknecht have been discussed above.

However, Gutknecht does not explicitly teach wherein the at least one three-dimensional figure is associated with a bonus game.

Inoue teaches this gaming device and method further comprising a gaming apparatus (7) configured to allow the player to place a wager (see **fig.1; col.5, lines 37-39**), and wherein the at least one three-dimensional figure is associated with a bonus game (see **col.2, lines 21-23**).

Therefore in view of Inoue, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place a gaming apparatus to allow the player to place a wager and to make the three-dimensional figure to be associated with a bonus game so that the gaming device can attract players and heighten their interest in playing the game.

Response to Arguments

8. Applicant's arguments on all claims have been considered but are moot in view of the new grounds of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cohen et al teaches a promotional game method and apparatus thereof.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/A. O. T./

Examiner, Art Unit 3714

/John M Hotaling II/

Supervisory Patent Examiner, Art Unit 3714